

a' 3. (amended) A lens care solution comprising:

0.01 to about 5 weight percent of imidazole; an effective amount of a preservative agent; and the balance water

REMARKS

Claims 2 and 3 have been amended to respond to the Office's comments concerning section 112.

The examiner relies upon United States Patent No. 6,162,393 to reject claims 1-28 by pointing out that imidazole is known to be used in contact lens solutions and directing to look at the "entire document". Indeed imidazole is mentioned as a potential buffering agent in the '393 specification as follows:

In the case of contact lens and ophthalmic solutions various agents are added to enhance compatibility with the eye. To avoid stinging or irritation it is important that the solution possess a tonicity and pH within the physiological range, e.g., 200-350 mOsmole for tonicity and 6.5-8.5 for pH. To this end, various buffering and osmotic agents are often added. The simplest osmotic agent is sodium chloride since this is a major solute in human tears. In addition propylene glycol, lactulose, trehalose, sorbitol, mannitol or other osmotic agents may also be added to replace some or all of the sodium chloride. Also, various buffer systems such as citrate, phosphate (appropriate mixtures of Na_2HPO_4 , NaH_2PO_4 , and KH_2PO_4), borate (boric acid, sodium borate, potassium tetraborate, potassium metaborate and mixtures), bicarbonate, and tromethamine and other appropriate nitrogen-containing buffers (such as ACES, BES, BICINE, BIS-Tris, BIS-Tris Propane, HEPES, HEPPS, imidazole, MES, MOPS, PIPES, TAPS, TES, Tricine) can be used to ensure a physiologic pH between about pH 6.5 and 8.5. Column 4, line 19 to Column 4, line 37

It can be seen that the use of imidazole is taught in a laundry list of materials and nowhere else in the reference. There is no teaching of the concentration level that imidazole should be used, or that attendant benefits would result. Indeed Du Bruiju could not teach that imidazole at the concentrations required in the reference has surprising beneficial characteristics, see for example at page 6 of the application at the experimental evidence under the heading "Reduced Protein Deposition". Clearly, the effect of 0.01 to 5 weight

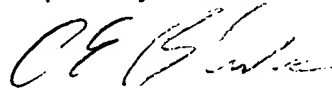
percent imidazole was unknown to Du Bruiju, especially since there is no evidence that Du Bruiju ever made a contact lens solution that contained any level of imidazole. While Du Bruiju teaches that imidazole could be used as a buffer to adjust the pH to between 6.5 and 8.5, there is no indication of what concentration of imidazole that would require. Indeed, it could be at "no concentration" since the normal pH of amines may be within the pH range of 6.5 to 8.5. Since no limits or examples are put forth, it must be the case that Du Bruiju does not teach the effective use, or compositions thereof, to reduce protein deposition.

Given that Du Bruiju is silent as to concentrations of imidazole to be used to reduce protein deposition, or the effectiveness of imidazole in reducing protein deposition, it must be the case that Du Bruiju does not teach the claimed methods for reducing protein deposition. Du Bruiju can't be said to teach what Du Bruiju does not know.

It must be noted that the methods are directed to reducing protein deposition, in other words, preparing contact lens surfaces so that protein will not deposit on such treated lenses. This effect is the surprising result, and is demonstrated in the specification. As such the specification rebuts any inference of obviousness.

Reconsideration and allowance of the pending claims is respectfully requested.

Respectfully submitted,



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MARKED-UP COPY OF AMENDMENTS MADE TO THE CLAIMS

IN THE CLAIMS

Please amend the claims as follows:

2. (amended) A lens care solution comprising:

[0.0] 0.01 to about 5 weight percent of imidazole; an effective amount of tonicity agent ; and the balance water

3. (amended) A lens care solution comprising:

[0.0] 0.01 to about 5 weight percent of imidazole; an effective amount of a preservative agent; and the balance water